

CHARLOTTE, NC 28280-4000

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ATTORNEY DOCKET NO. APPLICATION NO. FILING DATE FIRST NAMED INVENTOR CONFIRMATION NO. 10/720,710 11/24/2003 Krishnaraju Varadarajan 031599/261149 5368 EXAMINER 826 7590 08/28/2006 ALSTON & BIRD LLP ELOSHWAY, NIKI MARINA BANK OF AMERICA PLAZA ART UNIT PAPER NUMBER 101 SOUTH TRYON STREET, SUITE 4000

3727
DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		E
	Application No.	Applicant(s)
Office Action Summary	10/720,710	VARADARAJAN, KRISHNARAJU
	Examiner	Art Unit
	Niki M. Eloshway	3727
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
Status		
1) Responsive to communication(s) filed on 12 Ju	<u>ine 2006</u> .	
2a)⊠ This action is <b>FINAL</b> . 2b)☐ This	a) This action is <b>FINAL</b> . 2b) This action is non-final.	
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
Disposition of Claims	. ,	
4) Claim(s) 1-25 is/are pending in the application.		
4a) Of the above claim(s) is/are withdrawn from consideration.		
5) Claim(s) is/are allowed.		
6)⊠ Claim(s) <u>1-25</u> is/are rejected.		
7) Claim(s) is/are objected to.		
8) Claim(s) are subject to restriction and/or	election requirement.	
Application Papers		
9) The specification is objected to by the Examiner		
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.		
	aminer. Note the attached Office	Action or form PTO-152.
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:		
1. Certified copies of the priority documents have been received.		
<ul> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage</li> </ul>		
application from the International Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list of the certified copies not received.		
	,	
Attachment(s)	_	
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary ( Paper No(s)/Mail Da	
Paper No(s)/Mail Date <u>5/1/06</u> .		atent Application (PTO-152)

Application/Control Number: 10/720,710 Page 2

Art Unit: 3727

#### **DETAILED ACTION**

## Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hambleton et al. (U.S. 4,557,398) in view of Powell (WO 99/07786) Hambleton et al. discloses the claimed invention except for the lower acid content material. Powell teaches that it is known to provide a heat seal material which comprises an ethylene acrylic acid ionomer and an ethylene methacrylic acid ionomer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Hambleton et al. with a heat seal material of Powell, in order to improve the adherence qualities of the sealing material.

### Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

## Conclusion

4. M.P.E.P. 706.07(a) states that "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." Accordingly,

Application/Control Number: 10/720,710 Page 3

Art Unit: 3727

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Miki M. Eloshway

Examiner Art Unit 3727

nme

NATHAN J. NEWHOUSE SUPERVISORY PATENT EXAMINER